

From: jeff chasick
To: Microsoft ATR
Date: 1/24/02 9:59pm
Subject: Re U.S. v. Microsoft case

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"it is my responsibility oversee the deployment of new technologies to our company. My position gives me ample freedom to implement whatever software or hardware I see necessary to keep the company network running smoothly and to satisfy user requests. Unfortunately, though my position may give me that freedom, the current software economy cannot. . . .

"I would dearly love to replace all Microsoft technology in my office with Open Source software, and if the software economy give me as much freedom as my job did, I would do just that. However, the most defeating problem is what Microsoft chooses to keep secret -- it's network protocols, the layout of it's Office files, and the precise technology needed to migrate from their email server. . . . I am asking the court to force Microsoft to publish these protocols in detail.

"I am also urging to court to act on future technologies as well. Microsoft is now planning to add vast pieces of the Internet to it's web of interdependencies. With it's initiative .Net, whole portions of the web would be cut off from non-Microsoft technologies. We have seen a glimpse of the monopolist's vision of the future with the UK and MSN portal, designed by Microsoft and accessible only with Microsoft technology. . . ."

"Because the most successful competitors in recent years in product markets in which Microsoft holds a true or de facto monopoly (eg. personal computer operating systems, Internet browsers, and office productivity software) have arisen from the open source software community, I believe it is of extreme importance that any settlement protect and enhance this community's ability to produce products that provide end-users with viable choices.

"In my reading of the proposed settlement, such protection is not provided. On the contrary, the settlement will serve to allow Microsoft to continue to hinder the open source software community's efforts.

"The proposed settlement speaks of disclosure of APIs and licensing of intellectual property. I fear that any information disclosed by Microsoft will only be licensed to vendors or developers under conditions of a non-disclosure agreement, thus preventing the implementation of such protocols in an open source project or product. Another issue I have with the proposed settlement is the restrictions that are placed on the entities with which Microsoft must share their API's. In the explanations I have seen of the proposed settlement these entities are restricted to 'commercial' ventures, implying for-profit status. This is simply wrong and way too restrictive. I believe that to be truly effective the parties with whom Microsoft should share their API's and the like should be broadly defined, maybe something like 'any party or entity that could potentially benefit from such information'. In other words this information should essentially be in the public domain."

"This settlement, if implemented as proposed, will serve to entrench Microsoft's monopolies further, by allowing it to exclude the open source software community from any future technologies and APIs it develops. As this community is currently one of Microsoft's most serious competitors, it seems unbelievable that the proposed settlement will aid Microsoft in eliminating this 'threat' to their monopolies.

"As an example of the current 'problem' of Microsoft's monopoly in the OS and office productivity software markets, I point to the ubiquitous '.doc' file. This one proprietary file format I believe is one of the cornerstones of Microsoft's OS/productivity suite monopoly. Many people I know in the academic and business communities regularly purchase updated versions of Microsoft Windows and Microsoft Office for the sole reason that their correspondents send them .doc files as e-mail attachments. The options for importing these files into 3rd party applications are many; however, having personally tried a large number of such programs, both free and commercial, I can safely say that many work well some of the time, none work well all of the time. The continuing cycle of forced upgrades to maintain compatibility

with correspondents lies at the heart of Microsoft's monopoly.

"As a solution to this kind of problem, I believe that Microsoft should be compelled to disclose the specifications of the file formats used by its products to anyone who sends or receives files in such formats and requests the information.

"Left unsolved, this problem is bound to be more severe in the future. It has been widely reported recently that Microsoft is considering moving to a yearly licensing-fee system for its OS and Office software. In this case, files created with licensed software and saved in proprietary formats may be permanently unavailable to the creator or owner of the data in the file if a user or company chooses to terminate its license. I may own the copyright of the work I create, but that is of little value if the only copy of the work in existence is one saved in a format to which I do not have access.

"Of course the .doc file format is not the only proprietary file format Microsoft products use, and the arguments above apply equally well to other products and file formats. The .doc format is likely the most important however, because text-based documents appear to be the most commonly shared and transmitted.

"A second cornerstone of Microsoft's monopoly is the fact that many computer manufacturers will not sell computer hardware without a Microsoft OS. I understand that the proposed settlement will prevent Microsoft from entering into exclusive arrangements with vendors, but I believe that stronger protections are required.

"If Microsoft's agreements with computer vendors forced the vendor to disclose to the computer purchaser the price of the Microsoft products included, it would help consumers choose products and vendors that were appropriate to their needs. As an example, I point to Dell which will, as far as I can tell, not sell a computer without a Microsoft OS and office productivity suite. If purchasers knew that without these products they could save some number of dollars, that now often amounts to a sizable percentage of the computer package purchase price, they could apply pressure to the vendor to provide alternative (likely less expensive) products. Microsoft has stated concerns that selling computers without operating systems equates to software piracy. This assertion is absurd, and has become irrelevant with Microsoft's newest release of Windows XP, which requires license activation.

"Having consumers and end-users with more information is clearly in the public interest. All of what is suggested here concerns supplying information that enables computer users to make informed decisions, and to access their own work on their own computer.

"I personally think that is probably a little radical, but then I see demo copies of Microsoft's XP operating system on all the workbenches of my local post offices and I do wonder what is going on here. I do not see any other vendors product demos available there. This seems to indicate implicit approval of Microsoft products and no other by a government entity?

Thus I am perplexed at the current 'penalties' being 'imposed' on Microsoft. They seem to be more of an encouragement for Microsoft to continue in the same ways it has been and those are the very same ones that brought this issue to the DOJ in the first place. If these are implemented as currently stated then fair business practices, innovation and competition are DEAD in the computer field.

"The Court declares Microsoft operating system products 'criminally compromised intellectual property'. This is a special state of copyright protection vacancy, under which Microsoft operating system products lose their patent and copyright protections exactly five years after their release dates. . . .

"First off, it has one essential characteristic of anything that will be

effective upon Microsoft, simplicity. They feed on loopholes. There are none in the above. There's nothing they can do about the Fed not protecting the copyrights their existence depends upon.

"There is nothing for them to cooperate with.

"This doesn't require any cooperation or good faith from Microsoft, which is also crucial. (They may actually favor this remedy, however.) . . .

"It does actually partially break their monopoly. The AOLs and Oracles and Rick Hohensees of the world can produce thier own alternatives to Windows, based on older versions of Windows. (I personally have to be very well paid to look at a Windows desktop, but distastes vary. I use Linux.)

"The focus is on the software others are dependant on, operating systems. This leaves Microsoft untouched as to application products such as Office. . . .

.comment: Your Voice
Another Approach
Dennis E. Powell

From Florida a careful dissection of Microsoft's attempts to maintain its monopoly and to create new ones:

"I am a Software Developer who has worked in the industry for almost 30 years. I have used many Microsoft products, and have enjoyed the increasing abilities of software systems developed by Microsoft. I also enjoy using other operating systems, but as a software developer, I have to follow market trends to keep myself fed - regardless of the market trends.

"However, it is apparent that Microsoft has attempted to maintain a monopoly on the Internet Web Browser market to any casual software user. It is more apparent to a software developer who work within Microsoft operating systems. The technical aspects involved in the operating system itself, specifically, development with the Microsoft Foundation Classes and use of '.Net' technology marries the software developer (happily or unhappily so) to Internet Explorer, and the operating system.

"Furthermore, specific training programs such as MCSE (Microsoft Certified Software Engineer) and MCS D (Microsoft Certified Solution Developer) are geared towards maintaining the Internet Browser market by way of gearing Microsoft Certified individuals (who pay for courses and tests!) to use only Microsoft Products. Operating Systems. Software. Software Development. In an Internet enabled world, these are the tools for maintaining a monopoly on the Internet Browser Market.

"One could argue that nobody else has attempted these things on the level that Microsoft Inc. has. Yet that is my point. Nobody should. Freedom of Choice.

"The newer versions of Windows have the Internet technologies wrapped in them. This IS an obvious attempt to maintain a monopoly on the Internet Browser market. They may be able to prove that they did not do it 'on purpose', but they have done it. If I run over a man with my car, and I broke a traffic law while doing so, the offense is manslaughter. If I planned to do it (premeditated), it's Murder 1. The fact remains that a man would be dead.

"Odds are that when this is read, it will be read on a Windows NT 4.0 machine. Why? Because the U.S. Government has certified Windows NT 4.0 as a secure operating system. Furthermore, this mail message will probably be read through another one of Microsoft's applications.

"The U.S. Government, for lack of any other 'secure' operating system, has gone with the highest bidder. Neil Armstrong quipped about going to the moon

on everything built by the lowest bidder, and here the United States states that we'll go with the ONLY software manufacturer that creates an operating system. This seems counterintuitive. Freedom of Choice. If you need more proof than the software that the reader of this document is using, and my ability to predict that, I'm at a loss.

"These two points highlight the fact that the average American consumer is paying more than once for the same software - first as consumers, then as taxpayers. When banks charge twice for ATM withdrawals, we cringe and say that it may be legal, but it is obviously immoral. Given, the hardware manufacturer is hiding the price of the operating system on new computer systems, the fact remains the same.

"This is a sticky situation, but legal recourse in the interest of the people of the United States (and the rest of the world!) should contain the following items:

"(1) Microsoft products - or products of any software manufacturer - must be sold as separate items by computer vendors. Users can then make a CONSCIOUS choice. Other software manufacturers then also have a chance to compete. Installation of the USER SELECTED software can remain free.

"(2) Any Microsoft networking protocols must be published in full and approved by an independent network protocol body. This would prevent Microsoft from seizing de facto control of the Internet.

"(3) The specifications of Microsoft's past, present and future document and network formats must be made public, so that documents created in Microsoft applications may be read by programs from other makers, on Microsoft's AND other operating systems. This is in addition to opening the Windows Application Program Interface ('Windows API', the set of "hooks" that allow other parties to write applications for Windows operating systems), which is already part of the proposed settlement.

"(4) The level Microsoft is certified by the Software Engineering Institute must be made public to the consumer, as well as insight into their development process for Operating Systems. SEI level 3 is required by the United States Government for software companies that supply software to it (or that was coming in 1999). This certification was created to protect the government from software manufacturers that had no software development process. This same certification should protect the average consumer, AND insight into the Software Development Process for creation of their operating systems would give software manufacturer's a chance to keep up with Microsoft.

"(5) Device Driver information for new operating systems MUST be made public prior to the release of the operating system by a minimum of 6 months. This is VERY important when dealing with future web enabled embedded devices. This is also very important to the average consumer - they get a better product!

"This judgment is not only of import to the United States, where it is a national issue. It is in fact an INTERNATIONAL issue, since the monopoly itself extends to all corners of the world. Judgment in this case MUST be fair to the consumer, because future cases along these lines will look toward this precedent. And, in future, it may not be as domestic an issue.

"Furthermore, if Microsoft Inc. were a foreign company, this would be seen as a security issue. It should be seen this way despite the fact that Microsoft is a domestic software manufacturer for the SAME reasons.

"Please realize that the implications in an Internet based society reach further than the next few years. They affect society ad infinitum."

"In summary, I believe the proposed settlement is seriously lacking, and will, if implemented as proposed, aid Microsoft in its efforts to hinder its

most viable competitors. Any successful settlement must protect the rights of computer users to choose the products they desire to access their data."